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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL
PROCUREMENT
POLICY

AUG 27 1985

STAT

MEMORANDUM TO: HEADS OF DEPARTMENTS AND AGENCIES
FROM: *William E. Mathis*
WILLIAM E. MATHIS, ACTING ADMINISTRATOR
SUBJECT: OFPP Policy Letter 85-1, Federal Acquisition Regulations System

Enclosed is a copy of OFPP Policy Letter 85-1 on the Federal Acquisition Regulations System. Also enclosed is the notice of final rule in the Federal Register dated August 27, 1985.

Enclosures

cc:
Agency Senior Procurement Executives





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

**OFFICE OF FEDERAL
PROCUREMENT
POLICY**

AUG 19 1985

OFPP POLICY LETTER 85-1

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Federal Acquisition Regulations System

1. Purpose. The purpose of this Policy Letter is to implement certain requirements of the Office of Federal Procurement Policy Act (the Act) (P.L. 93-400 as amended, 41 U.S.C. 401 et. seq.) concerning the definition and maintenance of the single system of simplified Government-wide procurement regulations. It also rescinds and replaces Policy Letter 80-5, dated July 10, 1980. It does not address OMB's rescission authority which will be the subject of a subsequent issuance.
2. Authority. This Policy Letter is issued pursuant to Section 6 of the Office of Federal Procurement Policy Act, 41 U.S.C. 405.
3. Background. P.L. 93-400, (August 30, 1974) which established the Office of Federal Procurement Policy, required the Administrator to establish a system of coordinated and, to the extent feasible, uniform procurement regulations for the executive agencies. In January 1978, with the cooperation of the Department of Defense (DOD) and General Services Administration (GSA), the Administrator launched the Federal Acquisition Regulation (FAR) project. On July 10, 1980, OFPP issued Policy Letter 80-5 which initiated the FAR System. On March 17, 1982, Executive Order 12352 directed that DOD, GSA and the National Aeronautics and Space Administration (NASA) continue their joint efforts to consolidate their common procurement regulations into a single simplified FAR by the end of calendar year 1982. On September 19, 1983, the FAR was published in the Federal Register under the regulatory authority of GSA, DOD, and NASA, with an effective date of April 1, 1984.

Part 1 of the FAR, which formalized the FAR System, provides for the operation, and maintenance of the FAR system. A Memorandum of Understanding for FAR Maintenance was approved by the Deputy Under Secretary of Defense (Acquisition Management), the Assistant Administrator for Acquisition Policy of GSA, and the Assistant Administrator for Procurement of NASA on February 21, 1984, which included procedures for recommending FAR changes, establishing FAR cases, processing FAR cases and for resolving disagreements.

The Office of Federal Procurement Policy Act Amendments of 1983 (P.L. 98-191), requires that policies prescribed by the Administrator be implemented in the single system of Government-wide procurement regulations. It also requires that the Administrator provide leadership, ensure action, and resolve differences among the executive agencies in the maintenance of the single regulation. In any instance in which the Administrator is notified that DOD, GSA, and NASA are unable to agree

on or fail to issue Government-wide regulations in a timely manner, the Administrator may, under the Act, and with due regard to applicable laws and the program activities of the executive agencies, prescribe Government-wide regulations which must be consistent with the policies and functions set forth in P.L. 98-191.

4. Single System of Government-Wide Procurement Regulations. The Federal Acquisition Regulations System is the single system of Government-wide procurement regulations defined in Section 4(4) of the Act. The FAR System includes the FAR and agency acquisition regulations, including those issued by suborganizations, which implement or supplement the FAR. However, the FAR System does not include agency and suborganization regulations covering internal operating procedures that have no significant impact on the contractor, e.g., designations and delegations of authority, assignments of responsibilities, work-flow procedures, and internal reporting requirements.

Each agency, based on its unique structure, shall determine to which organizational level its suborganizations have authority to issue regulations implementing or supplementing higher-level agency FAR supplements. Such determination shall be provided to the Administrator and made a part of the Agency's implementation of Part 1 of the FAR. DOD, GSA, and NASA shall be responsible for ensuring that agency implementing and supplementing regulations are reviewed for compliance with the FAR System requirements.


5. Information on FAR Maintenance. For the purpose of keeping OFPP informed of the content of the FAR System, each executive department and agency shall provide a copy of its FAR implementing and supplementing regulations to OFPP.

Once every three months, the Civilian Agency Acquisition and Defense Acquisition Regulatory Councils each shall provide OFPP a list of all open CAAC, DAR and FAR cases. The lists shall include the case numbers; the originator; the subject matter of the case; the date received or originated; and the date and nature of disposition. The FAR Secretariat shall also provide OFPP: (a) a copy of all proposed and final FAR changes as soon as practicable; and (b) upon request, a copy of the initiating document of any assigned FAR case or other proposed FAR change.

6. OFPP Resolution of Differences. When the Defense Acquisition Regulatory Council and the Civilian Agency Acquisition Council cannot agree on the resolution of a proposed FAR change, the matter shall be forwarded to the Deputy Under Secretary of Defense for Acquisition Management, DOD; the Assistant Administrator for Acquisition Policy, GSA; and the Assistant Administrator for Procurement, NASA for resolution. DOD, GSA and NASA shall notify OFPP if they are unable to agree within 15 days of the referral. If, for any reason, an agreement cannot be reached within 30 days following the date of the notice, the matter shall be deemed a disagreement in accordance with Public Law 98-191, and shall be referred promptly to the Administrator for resolution. All such referrals shall be accompanied by an issue paper containing a description of the proposed FAR change and the relevant positions of all executive agencies and other interested parties that have expressed a position in writing to the Councils on the proposed FAR change. Any decision not

to develop FAR coverage on a proposed FAR change affecting members of both councils, with the intention that such proposed FAR change is to be covered differently in agency implementing or supplementing regulations, shall be referred promptly, with supporting rationale, to the Administrator, who will determine within five working days after receipt of such referral whether the decision conforms to the Federal Acquisition Regulations System maintenance concept.

7. OFPP Issuance of Regulations. When the Administrator considers that a particular proposed FAR change is not being resolved in a timely manner, the Administrator, after consultation with DOD, GSA and NASA, shall give notice and specify a time in which a decision must be reached regarding issuance of regulations. Following such notice and time allotted for issuance of regulations, the Administrator may determine that DOD, GSA and NASA have failed to issue Government-wide regulations in a timely manner and may prescribe regulations, which shall be forwarded to DOD, GSA, and NASA for timely publication in the applicable part of the FAR. OFPP development of any regulations will follow the requirements of Sec. 302(a) of P.L. 98-577 (41 U.S.C. 420) on public participation.
8. Effective Date. This Policy Letter will be effective October 1, 1985.
9. Concurrence. This Policy Letter has the concurrence of the Director of the Office of Management and Budget.


William E. Mathis
Acting Administrator

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Crosse Boiling Water Reactor (the facility) at the steady-state power levels not in excess of 165 megawatts thermal. The facility is a boiling water reactor located at the licensee's site in Vernon County, Wisconsin. The license provides, among other things, that it is subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

II

Section 50.71(e)(3)(ii) of 10 CFR Part 50 requires that those plants initially subject to the NRC's systematic evaluation program (SEP) must file a complete updated Final Safety Analysis Report (FSAR) within 24 months after receipt of notification that SEP has been completed. By letter dated July 20, 1983, the staff informed Dairyland Power Cooperative that SEP has been completed for the La Crosse Boiling Water Reactor (LACBWR) and that, pursuant to 10 CFR 50.71(e)(3), the licensee was required to file an updated FSAR. By letter dated July 12, 1983, the licensee requested an exemption to defer submittal of the update FSAR for 60 days.

The final report, "Integrated Plant Safety Assessment, Systematic Evaluation Program" for the La Crosse Boiling Water Reactor, NUREG-0827, had several open item that required further evaluation and plant modifications. The licensee's July 12, 1985 letter states that these changes required the full-time utilization of LACBWR's small engineering staff and that the majority of the design changes were completed during the refueling outage in March-April 1985. Since that time, the LACBWR staff has been engaged in conducting the engineering review of the updated FSAR. The licensee indicated that it needs an additional 60 days to complete the activities associated with submitting the update FSAR.

The NRC staff considered safety aspects of the requested exemption from the update FSAR submittal date. The proposed exemption affects only the required date for updating the FSAR and does not affect the risk of facility accidents. Thus, the granting of the requested exemption will have no significant impact on plant safety.

III

The public interest will be served by granting the exemption since the licensee used its personnel to complete other work of higher safety significance sooner than would be the case if personnel were diverted to update the FSAR.

Based on its review, the staff concludes that issuance of this exemption will have no significant effect on plant safety. Further, this action is in the public interest and good cause has been shown to support the exemption. Therefore, a 60-day exemption from the date of issuance of this exemption is being granted for the submittal of an updated FSAR for the La Crosse Boiling Water Reactor.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (50 FR 33658, August 20, 1985).

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby approves the following temporary exemption from compliance with § 50.71(e)(3).

An undated FSAR containing those original pages of the FSAR that are still applicable plus new replacement pages shall be filed on or before a date 60 days from the date of issuance of this exemption. This updated FSAR shall bring the FSAR up to date as of a maximum of 6 months prior to the date of filing the updated FSAR, with subsequent revisions no less frequently than annually thereafter.

Dated at Bethesda, Maryland, this 21st day of August 1985.

For the Nuclear Regulatory Commission,
Hugh L. Thompson, Jr.,
Director, Division of Licensing, Office of
Nuclear Reactor Regulation.

[FR Doc. 85-20469 Filed 8-28-85; 8:45 am]
BILLING CODE 7560-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Reactor Operations; Rescheduling of Meeting

The Federal Register published on Friday, August 16, 1985 (50 FR 33135) contained notice of a meeting of the ACRS Subcommittee on Reactor Operations to be held on September 9, 1985 has been changed to Tuesday, September 10, 1985, 1:00 p.m., Room 1048, 1717 H Street, NW, Washington, DC. All other items remain the same as previously published.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to

the cognizant ACRS staff member, Mr. Richard Major (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date: August 21, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85-20470 Filed 8-28-85; 8:45 am]

BILLING CODE 7560-01-M

OFFICE OF MANAGEMENT AND BUDGET

OFPP Policy Letter 85-1—Federal Acquisition Regulation System

AGENCY: Office of Federal Procurement Policy (OFPP), Office of Management and Budget.

ACTION: Final Policy Letter.

SUMMARY: This Policy Letter is issued to implement certain authorities and responsibilities of the Office of Federal Procurement Policy contained in Pub. L. 93-400 as amended by Pub. L. 96-83 and Pub. L. 98-191 concerning the definition and maintenance of the single system of simplified Government-wide procurement regulations.

DATE: The effective date of this Policy Letter is October 1, 1985.

FOR FURTHER INFORMATION CONTACT: William Maraist, Office of Federal Procurement Policy, OMB, 726 Jackson Place, NW, Washington, DC 20503, (202-395-3300).

SUPPLEMENTARY INFORMATION: The Office of Federal Procurement Policy Act (Pub. L. 93-400 as amended by Pub. L. 96-83 and Pub. L. 98-191) provides, in part, the following:

Section 4. As used in this Act—(4) the term "single system of Government-wide procurement regulations" means (A) a single Government-wide procurement regulation issued and maintained jointly by the General Services Administration, the Department of Defense, and the National Aeronautics and Space Administration. . . and (B) agency acquisition regulations implementing and supplementing the Government-wide procurement regulation. . .

Section 6(a). The Administrator shall provide overall direction of procurement policy and leadership in the development of procurement systems of the executive agencies.

Section 6(d). The functions of the Administrator shall include—(1) providing leadership and ensuring action by the executive agencies in the establishment,

development and maintenance of the single system of simplified Government-wide procurement regulations and resolving differences among the executive agencies in the development of simplified Government-wide procurement regulations, procedures and forms.

Section 6(b). In any instance in which the Administrator determines that the DOD, NASA and the GSA are unable to agree on or fail to issue Government-wide regulations, procedures and forms in a timely manner, the Administrator may . . . prescribe Government-wide regulations, procedures and forms which shall be followed by executive agencies. . . .

This Policy Letter (a) designates the Federal Acquisition Regulations System as the single system of Government-wide procurement regulations referred to in the OFPP Act; (b) requires certain information flow in the FAR System; (c) requires that issues on which DOD, GSA and NASA are unable to agree be referred to the Administrator for resolution; and (d) requires that decisions not to develop FAR coverage on issues affecting members of both the Defense Acquisition Regulatory Council and the Civil Agency Acquisition Council (leaving such issues to be covered in agency supplementing regulations) shall be referred to the Administrator. It is intended to implement the regulatory role assigned to OFPP by Pub. L. 98-191—that is, to resolve disputes and to be in a position to issue regulations if regulations are not timely under the FAR. It is not intended to implement OMB's rescission authority, which will be the subject of a subsequent issuance.

A draft policy letter was published in the Federal Register on July 6, 1984 (49 FR 27863) for public and Federal agency review and comment. A public meeting for the purpose of providing an opportunity for interested parties to present their views in person was held on August 2, 1984.

Comments received were very diverse and not susceptible to summarization; however, they fell in three categories. First, those from the private sector were very supportive of a strong OFPP regulatory role giving suggested changes to strengthen the policy letter. Most of these recommendations went beyond the required regulatory role specified in Pub. L. 98-191. Other suggested changes that clarified the policy letter were adopted. Second, a group of executive agencies and industry associations supported the policy letter without comment or stated that they had no objection. Third, some agencies commented, either in writing or in subsequent meetings, that the policy letter was either unnecessary or intruded on the regulatory authority of

DOD, GSA and NASA with respect to the FAR. The policy letter was narrowly drafted to implement the statutory responsibilities for procurement regulations assigned to OFPP by Pub. L. 98-191.

All comments received were carefully considered in drafting the following policy letter.

Dated: August 19, 1985.

William J. Maraist,

Acting Associate Administrator for Policy Development.

OFPP Policy Letter 85-1

To the Heads of Executive Departments and Establishments

Subject: Federal Acquisition Regulations System

1. *Purpose.* The purpose of this Policy Letter is to implement certain requirements of the Office of Federal Procurement Policy Act (the Act) (Pub. L. 93-400 as amended, 41 U.S.C. 401 et seq.) concerning the definition and maintenance of the single system of simplified Government-wide procurement regulations. It also rescinds and replaces Policy Letter 80-5, dated July 10, 1980. It does not address OMB's rescission authority which will be the subject of a subsequent issuance.

2. *Authority.* This Policy Letter is issued pursuant to section 6 of the Office of Federal Procurement Policy Act, 41 U.S.C. 405.

3. *Background.* Pub. L. 93-400, (August 30, 1974) which established the Office of Federal Procurement Policy, required the Administrator to establish a system of coordinated and, to the extent feasible, uniform procurement regulations for the executive agencies. In January 1978, with the cooperation of the Department of Defense (DOD) and General Services Administration (GSA), the Administrator launched the Federal Acquisition Regulation (FAR) project. On July 10, 1980, OFPP issued Policy Letter 80-5 which initiated the FAR System. On March 17, 1982, Executive Order 12352 directed that DOD, GSA and the National Aeronautics and Space Administration (NASA) continue their joint efforts to consolidate their common procurement regulations into a single simplified FAR by the end of calendar year 1982. On September 19, 1983, the FAR was published in the Federal Register under the regulatory authority of GSA, DOD, and NASA, with an effective date of April 1, 1984.

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Management), the Assistant Administrator for Acquisition Policy of GSA, and the Assistant Administrator for Procurement of NASA on February 21, 1984, which included procedures for recommending FAR changes, establishing FAR cases, processing FAR cases and for resolving disagreements.

The Office of Federal Procurement Policy Act Amendments of 1983 (Pub. L. 98-191), requires that policies prescribed by the Administrator be implemented in the single system of Government-wide procurement regulations. It also requires that the Administrator provide leadership, ensure action, and resolve differences among the executive agencies in the maintenance of the single regulation. In any instance in which the Administrator is notified that DOD, GSA, and NASA are unable to agree on or fail to issue Government-wide regulations in a timely manner, the Administrator may, under the Act, and with due regard to applicable laws and the program activities of the executive agencies, prescribe Government-wide regulations which must be consistent with the policies and functions set forth in Pub. L. 98-191.

4. *Single System of Government-Wide Procurement Regulations.* The Federal Acquisition Regulations System is the single system of Government-wide procurement regulations defined in Section 4(4) of the Act. The FAR System includes the FAR and agency acquisition regulations, including those issued by suborganizations, which implement or supplement the FAR. However, the FAR System does not include agency and suborganization regulations covering internal operating procedures that have no significant impact on the contractor, e.g., designations and delegations of authority, assignments of responsibilities, work-flow procedures, and internal reporting requirements.

Each agency, based on its unique structure, shall determine to which organizational level its suborganizations have authority to issue regulations implementing or supplementing higher-level agency FAR supplements. Such determination shall be provided to the Administrator and made a part of the Agency's implementation of Part 1 of the FAR. DOD, GSA, and NASA shall be responsible for ensuring that agency implementing and supplementing regulations are reviewed for compliance with the FAR System requirements.

5. *Information on FAR Maintenance.* For the purpose of keeping OFPP informed of the content of the FAR System, each executive department and agency shall provide a copy of its FAR

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implementing and supplementing regulations to OFPP.

Once every three months, the Civilian Agency Acquisition and Defense Acquisition Regulatory Councils each shall provide OFPP a list of all open CAAC, DAR and FAR cases. The lists shall include the case numbers; the originator; the subject matter of the case; the date received or originated; and the date and nature of disposition. The FAR Secretariat shall also provide OFPP: (a) A copy of all proposed and final FAR changes as soon as practicable; and (b) upon request, a copy of the initiating document of any assigned FAR case or other proposed FAR change.

6. OFPP Resolution of Differences. When the Defense Acquisition Regulatory Council and the Civilian Agency Acquisition Council cannot agree on the resolution of a proposed FAR change, the matter shall be forwarded to the Deputy Under Secretary of Defense for Acquisition Management, DOD; the Assistant Administrator for Acquisition Policy, GSA; and the Assistant Administrator for Procurement, NASA for resolution. DOD, GSA and NASA shall notify OFPP if they are unable to agree within 15 days of the referral. If, for any reason, an agreement cannot be reached within 30 days following the date of the notice, the matter shall be deemed a disagreement in accordance with Pub. L. 98-191, and shall be referred promptly to the Administrator for resolution. All such referrals shall be accompanied by an issue paper containing a description of the proposed FAR change and the relevant positions of all executive agencies and other interested parties that have expressed a position in writing to the Councils on the proposed FAR change. Any decision not to develop FAR coverage on a proposed FAR change affecting members of both councils, with the intention that such proposed FAR change is to be covered differently in agency implementing or supplementing regulations, shall be referred promptly, with supporting rationale, to the Administrator, who will determine within five working days after receipt of such referral whether the decision conforms to the Federal Acquisition Regulations System maintenance concept.

7. OFPP Issuance of Regulations. When the Administrator considers that a particular proposed FAR change is not being resolved in a timely manner, the Administrator, after consultation with DOD, GSA and NASA, shall give notice and specify a time in which a decision must be reached regarding issuance of

regulations. Following such notice and time allotted for issuance of regulations, the Administrator may determine that DOD, GSA and NASA have failed to issue Government-wide regulations in a timely manner and may prescribe regulations, which shall be forwarded to DOD, GSA, and NASA for timely publication in the applicable part of the FAR. OFPP development of any regulations will follow the requirements of Sec. 302(a) of Pub. L. 98-577 (41 U.S.C. 420) on public participation.

8. Effective Date. This Policy Letter will be effective October 1, 1985.

9. Concurrence. This Policy Letter has the concurrence of the Director of the Office of Management and Budget.

William E. Mathis,

Acting Administrator.

[FR Doc. 85-20404 Filed 8-26-85; 8:45 am]

BILLING CODE 2110-01-02

PENSION BENEFIT GUARANTY CORPORATION

Multiemployer Pension Plans; Effect of Withdrawal Following Sale of Assets

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice.

SUMMARY: This notice advises employers, multiemployer plan sponsors, and other interested persons that the Pension Benefit Guaranty Corporation is no longer considering the issuance of an interpretation concerning the effect that a sale of assets meeting the requirements of section 4204 of ERISA has on subsequent withdrawals.

FOR FURTHER INFORMATION CONTACT: John Carter Foster, Attorney, Multiemployer Regulations Group, Corporate Policy and Regulations Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006; 202-254-4860 (202-254-8010 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: On January 15, 1985 the Pension Benefit Guaranty Corporation (PBGC) published in the Federal Register a notice soliciting public comment concerning the effect that a sale of assets has on certain subsequent plan determinations with respect to the withdrawal of the seller (50 FR 2116). The PBGC was particularly interested in receiving comments on methods for giving credit to a withdrawing employer for a prior sale of assets that met the requirements of section 4204(a)(1) of the Employee Retirement Income Security Act. This notice was issued partly in response to

questions raised by the PBGC's May 12, 1983 Opinion Letter (Opinion Letter 83-10). That opinion letter stated that if a selling employer had previously sold assets in compliance with section 4204, then that seller was entitled to be given credit when facing liability for a subsequent withdrawal. The PBGC's purpose in soliciting comments was to obtain the public's input for an interpretation that the agency expected to publish in the near future.

The PBGC has reviewed the nine submissions received in response to the Federal Register notice. These submissions provide opinions and substantive comments on the differing effects that a withdrawal following a sale of assets has on an employer's withdrawal liability. However, in light of the complexity of these issues and the varied situations in which they arise, the PBGC now believes that disputes relating to these matters are best addressed individually by arbitration subject to review in the courts. See, e.g., Kroger Co. and Southern California Food Workers Pension Fund, 6 EBC 1345 (1985) (Nagle, Arb.). The PBGC is, therefore, no longer considering publishing the interpretation of section 4204 contemplated by the Federal Register notice of January 15, 1985.

Issued at Washington, D.C., on this 22nd day of August 1985.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 85-20471 Filed 8-26-85; 8:45 am]

BILLING CODE 7700-01-01

POSTAL RATE COMMISSION

[Docket No. C85-1]

Complaint of Advo-System, Inc.; Filing of Settlement Agreement in Docket No. C85-1 Complaint of Advo-System, Inc.

August 22, 1985.

The Commission hereby gives notice that the Director of the Office of the Consumer Advocate, who was named settlement coordinator in this proceeding, has filed with the Commission a document entitled "Stipulation and Agreement." In his transmittal letter, the Director noted that the agreement has been negotiated by a number of parties in the case, including the complainant and the respondent. He also said:

Although this agreement is not a unanimous one, the signatories believe that it can be the basis for a recommended decision to the Governors by the Commission, after an